



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 20 2001

Joe Rodriguez, Treasurer
Friends of Dave Eshleman
10840 Bennett Drive
Fontana, CA 92337

RE: MUR 5211
Friends of Dave Eshleman and
Joe Rodriguez, as treasurer

Dear Mr. Rodriguez:

On June 7, 2001, the Federal Election Commission found that there is reason to believe Friends of Dave Eshleman and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

21-04-405-3340

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Donald E. Campbell, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



David M. Mason
Vice Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

21-04-405-3341

**FEDERAL ELECTION COMMISSION
FACTUAL & LEGAL ANALYSIS**

RESPONDENTS: Friends of Dave Eshleman and
Joe Rodriguez, as treasurer

MUR: 5211

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Commission, as appropriate, and the Secretary of State of the appropriate state, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

The Special General Election in the Forty-Second District of the State of California was held on September 21, 1999. Pursuant to the Act, Friends of Dave Eshleman and Joe Rodriguez, as treasurer ("the Committee"), were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from September 2 through September 18, 1999, within 48 hours of their receipt. A review of the Committee's 1999 30 Day Post-Special General Report identified two contributions received from the candidate during the aforementioned period, of \$1,000 or more, and totaling \$60,000. The first contribution was made on September 2, 1999, in the amount of \$20,000, and the second contribution was made on September 15, 1999, in the amount of \$40,000. The Committee did not submit 48-Hour Notices for these contributions.

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On November 5, 1999, an Informational Notice was sent to the committee, noting that it may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of \$1,000 or more. On November 18, 1999, following attempts by the Reports Analysis Division analyst to contact the Committee, the campaign volunteer involved in the 48-hour reporting contacted the analyst. The volunteer stated that she was not aware that contributions from the candidate had to be reported as "last minute" costs.

Therefore, there is reason to believe that Friends of Dave Eshleman and Joe Rodriguez, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to report campaign contributions of \$1,000 or more, received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contributions.

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